THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20140 of 2001

Dated:22.06.2007

Between:

Adimulam Kanakavijaya.

…Petitioner

and

Agent to Government and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20140 of 2001

ORDER:

The petitioner's father, late Bapanayya, purchased land admeasuring Acs.2.63 cents in survey No.30/3 situated at Venkatanagaram Village of Addateegala Mandal in East Godavari District, in 1942. After his death in 1998, the petitioner claims to have succeeded to the property by reason of a registered Will, dated 14.12.1983, executed by his father. Be that as it is, the third respondent herein initiated action in L.T.R.P.No.386 of 1980 on a complaint given by the Special Deputy Tahsildar (Tribal Welfare), Addateegala. In the said case, the petitioner's father was respondent. By an order, dated 28.06.1984, the second respondent dropped the proceedings. Against the said order, the Special Deputy Tahsildar filed an appeal, being C.M.A.No.31 of 1988, before the first respondent and the same was dismissed on 12.10.1990.

In 1997, the second respondent again initiated action under the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation No.I of 1959) (Regulation, for brevity) in L.T.R.P.No.33 of 1997 against the fourth respondent, who is allegedly a tenant of Bapanayya, the father of the petitioner. It appears, the fourth respondent appeared before the second respondent and deposed that he is doing Cowl of the petition schedule land belonging to Adimulam Kanakavijaya. Considering this, the second respondent passed

orders on 20.08.1997, ordering ejectment of the fourth respondent. However, it is alleged that Bapanayya was ejected from the land, though he was not a party before the second respondent in L.T.R.P.No.33 of 1997. Aggrieved by the said order, Bapanayya filed C.M.A.No.12 of 1998 before the first respondent. He denied that the fourth respondent is a tenant and requested the first respondent to order fresh enquiry by the second respondent. The first respondent, however, dismissed the appeal on 15.01.2001, observing that as the land was leased out to the fourth respondent after coming into force of Regulation I of 1970, the provisions of the Regulation did not apply. Aggrieved by the same, the present Writ Petition is filed.

Learned counsel for the petitioner submits that the petitioner's father purchased property in 1942 and all along he or the petitioner has been in possession of the land and the fourth respondent was never in possession of the land, nor he was a tenant of the petitioner. He submits that the second respondent initiated proceedings against the fourth respondent, but not against the petitioner's father, and therefore, ejectment of Bapanayya, pursuant to the orders of the second respondent, is arbitrary and illegal.

No Counter-affidavit is filed by the respondents. Learned Government Pleader for Social Welfare, however, does not dispute that as per the documents available on record, no notice was issued to Bapanayya, though he was very much alive in 1997. On this ground alone, this Court holds that the order of the second respondent, as confirmed by the first respondent, is unsustainable. The matter requires fresh consideration by the second respondent.

In the result, the orders of the first and second respondents are set aside and the matter is remitted to the second respondent with a direction to issue notice to the petitioner and conduct fresh enquiry as per the Regulation, as amended by Regulation No.I of 1970.

The Writ Petition is accordingly allowed. No costs.

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(V.V.S.RAO, J)

22.06.2007
GJ